

Internal Revenue Service

Department of the Treasury

District  
Director

P. O. BOX 1600, GPO  
Brooklyn, New York 11202

Date: AUG 05 1987

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The information presented by your organization disclosed that you were incorporated on [REDACTED], [REDACTED] in the State of [REDACTED].

The purposes for which the Corporation was formed are as follows:

To purchase, lease, exchange, hire or otherwise acquire lands with or without buildings, thereon, or any interest therein, whatsoever, and wheresoever situated; to erect, construct, rebuild, enlarge, alter, improve, maintain, manage and operate houses, buildings or other works, of any description on any lands owned or leased by the Corporation, or upon any other lands; to sell, lease, sublet, mortgage, exchange, or otherwise dispose of any of the lands or any interest therein, or any houses, buildings, or other works owned by the Corporation; to engage generally in the real estate business, as principal, agent, broker or otherwise, and generally to buy sell, lease, mortgage, exchange, manage, operate, and deal in lands or interests in lands, houses, buildings or other works; and to purchase, acquire, hold, exchange, pledge, hypothecate, sell, deal in; and dispose of tax liens and transfers of tax liens on real estate.

To make, enter into, perform, and carry out contracts for constructing, building, altering, improving, repairing, decorating, maintaining, furnishing and fitting up buildings, tenements and structures of every description, and to advance money to and enter into agreements for all kinds with builders, contractors, property owners, and other for said purpose.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its Articles of Organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

The information submitted with your 1023 Application indicated that your activities consist of going to a summer bungalow for rest and relaxation. The use of this summer bungalow would be restricted to stockholders of the Organization.

In order to satisfy the organizational test, an organization must limit its purposes to one or more exempt purposes and must not be empowered, other than to an insubstantial degree, to engage in activities which are not in furtherance of exempt purposes. An organization described in 501(c)(3) must also dedicate its assets exclusively for exempt purposes. This will be accomplished if upon dissolution the assets of the Organization by reason of a provision in the Organization's Certificate of Incorporation or by operation of state law would be distributed for one or more exempt purposes (Income Tax Regulations 1.501(c)(3)-1(6)(4)).

Your organization's purposes are not limited exclusively for exempt purposes and your Certificate of Incorporation does not provide for irrevocable dedication of assets for exempt purposes. Accordingly, the organizational test is not satisfied.

Your organization also does not satisfy the operational test.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Your organization, by providing service to a small group of people, serves strictly a private benefit. The purposes stated in your creative document are not the purposes specified in section 501(c)(3) of the Internal Revenue Code. Therefore, we have determined you are not organized and operated exclusively for purposes stated in section 501(c)(3) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours

District Director

Enclosure: Publication 892